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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,620	07/31/2003	Christopher Norman Kline	END920030057US1	4750
26502 7590 12/27/2006 IBM CORPORATION IPLAW IQ0A/40-3 1701 NORTH STREET ENDICOTT, NY 13760			EXAMINER ROMANO, JOHN J	
			ART UNIT 2192	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			12/27/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/632,620

Applicant(s)

KLINE, CHRISTOPHER NORMAN

Examiner

John J. Romano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/31/2003</u>   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Claims **1-20** are pending in this action.

#### ***Information Disclosure Statement***

1. The Information Disclosure Statements filed on July 31<sup>st</sup>, 2003 has been considered.

#### ***Drawings***

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are informal. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

#### ***Claim Objections***

3. Claim **2** is objected to because of the following informalities: On line 1, the spelling of "wherein" is incorrect. Appropriate correction is required.

Claims **11-14** called for "A method as set forth in claim 10", however claim **10** is "A computer program product". Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims **1-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ciccone, Jr. et al., US 6,338,149 (art of record & hereinafter **Ciccone**) in view of Moshir et al., US 2004/0003266 (hereinafter **Moshir**).

In regard to claim **1**, **Ciccone** discloses:

- *"A method for managing a change to an application, operating system, data base or other software component of a computer system..."* (E.g., see Figure 1 & Column 1, lines 50-55), wherein a method for monitoring a change to an application or software component on a computer system is disclosed.
- *"...then automatically conducting a search for a key phrase or code associated with the attempt to execute or install said change to determine if said change was successful or unsuccessful..."* (E.g., see Figure 1 & Column 3, line 49 – Column 4, line 10), wherein after software installation, the administrator verifies the installation with any differences required to match the reference node 26 of Figure 1,

wherein attributes, system version, version number, expected values size in bytes and files of the application are verified. The application parameters that are checked (expected values, attributes version number, etc...) are interpreted as the key phrases or code associated with the install application used to determine if the change was successful.

- "...and subsequently, sending a notification of success or lack of success to another location." (E.g., see Figure 9 & Column 15, lines 27-32), wherein, upon occurrence of an error an alert is sent to a system administrator, wherein a wide area network employment a node would be in another location (e.g., see Column 3, lines 10-15).

But, **Cicccone** does not expressly disclose "...at one location, a user scheduling execution or installation of said change; subsequently, automatically attempting to execute or install said change as scheduled...". However, **Moshir** discloses:

- "...at one location, a user scheduling execution or installation of said change; subsequently, automatically attempting to execute or install said change as scheduled..." (E.g., see Figure 5 & page 13, paragraph [0158]), wherein an administrator sets a schedule for an automatic installation.

**Cicccone** and **Moshir** are analogous art because they are both concerned with the same field of endeavor, namely, implementing a software installation or upgrade management method for a system. Therefore, at the time the invention was made, it

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would have been obvious to a person of ordinary skill in the art to combine **Moshir's** scheduling the automatic installation by an administrator with **Cicccone's** change management process. The motivation to do so would have been to monitor, diagnose and remedy the system problems quickly and achieve an increased level of quality insurance control for the computing environment as taught by **Cicccone** (E.g., see Column 20, lines 19-25).

In regard to claim **2**, the rejections of base claim **1** are incorporated.

Furthermore, **Cicccone** discloses:

- "...said one location is local to said system." (E.g., see Figure 1 & Column 3, lines 15-27), wherein a system administrator can administer all computers from the administrator's desk.

In regard to claim **3**, the rejections of base claim **1** are incorporated.

Furthermore, **Cicccone** discloses:

- "...is a console for said system." (E.g., see Figure 1 & Column 13, line 66 – column 14, line 2), wherein a command line and GUI are disclosed.

In regard to claim **4**, the rejections of base claim **1** are incorporated.

Furthermore, **Cicccone** discloses:

- "...said sending step is performed by pager or e-mail..." (E.g., see Figure 9 & Column 15, lines 30-32), wherein sending the notification is sent by pager or email.

In regard to claim **5**, the rejections of base claim **1** are incorporated.

Furthermore, **Ciccone** discloses:

- "...*said notification is sent by said pager or e-mail to said user.*" (E.g., see Figure 9 & Column 15, lines 30-32), wherein sending the notification is sent by pager or email.

In regard to claim **6**, the rejections of base claim **1** are incorporated.

Furthermore, **Ciccone** discloses:

- "...*said sending step is performed by pager or e-mail.*" (E.g., see Figure 9 & Column 15, lines 30-32), wherein sending the notification is sent by pager or email.

In regard to claim **7**, the rejections of base claim **1** are incorporated. But, **Ciccone** does not expressly disclose "...*said change is implemented by a script file.*".

However, **Moshir** discloses:

- "...*said change is implemented by a script file.*" (E.g., see Figure 6 & page 12, paragraph [0146]), wherein script files are disclosed and implemented during deployment.

Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine **Moshir's** script file with **Ciccone's** change management process. The motivation to do so would have been to monitor, diagnose and remedy the system problems quickly and achieve an increased level of quality insurance control for the computing environment as taught by **Ciccone** (E.g., see Column 20, lines 19-25).

In regard to claim **8**, the rejections of base claim **1** are incorporated.

Furthermore, **Cicccone** discloses:

- "...*key phrase or code is stored in a log associated with said application, operating system, data base or other software component.*" (E.g., see Figure 1 & Column 4, lines 8-10), wherein the key phrase or code is stored in a log associated with the software.

In regard to claim **9**, the rejections of base claim **1** are incorporated.

Furthermore, **Cicccone** discloses:

- "...*said change is implemented by a change program, and further comprising the step of checking syntax of said change program at a time that said user schedules execution or installation of said change.*" (E.g., see Figure 1 & Column 6, lines 11-12), wherein a program is validated by executing on the reference node 26.

But **Cicccone** does not expressly disclose "at a time that said user schedules execution or installation of said change". However, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to validate the program upon scheduling. The motivation to do so would have been to provide the benefit of problem avoidance as disclosed by **Cicccone** (e.g., see Column 19, lines 57-58).

In regard to claim **10**, this is a computer program product version of the claimed method discussed above, in claim **1**, wherein all claimed limitations have also been addressed and/or cited as set forth above. For example, see **Cicccone**, storage device (e.g., see Figure 1 & Column 5, lines 23-35), wherein instructions to implement the



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process may be stored on disk drives. Additionally, see **Cicccone**, server/client system (e.g., see Figure 1 & Column 3, lines 28-29), wherein a client/server architecture is disclosed.

In regard to claim **11**, see claim **5**.

In regard to claim **12**, see claim **7**.

In regard to claim **13**, see claim **8**.

In regard to claim **14**, see claim **9**.

In regard to claim **15**, this is a system version of the claimed method discussed above, in claim **1**, wherein all claimed limitations have also been addressed and/or cited as set forth above. For example, see **Cicccone**, server/client system (e.g., see Figure 1 & Column 3, lines 28-29), wherein a client/server architecture is disclosed.

In regard to claims **16** and **17**, see claim **5**.

In regard to claim **18**, see claim **7**.

In regard to claim **19**, see claim **8**.

In regard to claim **20**, see claim **9**.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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- Jones et al., US 5,666,501, wherein a method for scheduling software via script files is disclosed.
- Rawat et al., Us 2002/0174185, wherein a method of automatic data capturing comprising a system administrator is disclosed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Romano whose telephone number is (571) 272-3872. The examiner can normally be reached on 8-5:30, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JJR



**TUAN DAM**  
**SUPERVISORY PATENT EXAMINER**